

INTERNAL REVENUE SERVICE

Number: **2001-0062**

Release Date: 3/30/2001

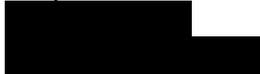
Index Number: 179.00-00



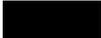
CC:PSI:6-COR- 101785-01

February 13, 2001

Re: Request to Revoke Section 179 Election



Tax Year: 1999

Dear 

This letter is in response to your letter dated December 5, 2000, to Commissioner of Internal Revenue, concerning revocation of an election made under section 179 of the Internal Revenue Code. In a telephone conversation on January 31, 2001, with our office, you clarified that the issue addressed in your letter relates to the depreciation of your condominium units as residential rental property under section 168(a) of the Internal Revenue Code. We hope that you find the following general information to be helpful, and for references, we have enclosed Publication 946, *How To Depreciate Property*, and Publication 551, *Basis of Assets*.

In general, section 168 of the Code provides a modified accelerated cost recovery system (MACRS) for depreciable tangible property placed in service after December 31, 1986. Depreciation deductions are computed under the MACRS's general depreciation system prescribed in section 168(a) by use of the applicable depreciation method, applicable recovery period, and applicable convention determined under section 168(b), (c), and (d).

Publication 946 describes the depreciation method, recovery period, and convention of depreciable property under the general depreciation system. For residential rental property, the depreciation method and recovery period are the straight line method and a 27.5 -year recovery period, respectively, and the applicable convention for residential rental property is the mid-month convention. See Publication 946, pages 26, 29, and 30.

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Publication 946 explains how a taxpayer can recover the cost of business or income-producing property through depreciation. It shows how to figure the depreciation deduction and how to fill out Form 4562, *Depreciation and Amortization*. Starting on page 24 of Publication 946, under the heading, **How to Figure the Deduction Using Percentage Tables**, there is a discussion on how a taxpayer can figure the depreciation deduction for each taxable year the depreciable property can be depreciated under section 168 of the Code. The Internal Revenue Service has established percentage tables for a taxpayer to use to figure the depreciation deduction for each year the depreciable property can be depreciated. Table A-6 in Appendix A of Publication 946 provides the correct percentage table to use in determining the depreciation deduction for residential rental property.

A taxpayer begins depreciating depreciable property when the taxpayer has placed the property in service for use in the taxpayer's trade or business or for the taxpayer's production of income activity. A taxpayer **stops** depreciating property either when the taxpayer has fully recovered the cost or investment in the property or when the taxpayer has retired the property from service, whichever happens first (Emphasis added). Property is retired from service when the taxpayer permanently withdraws it from use in the taxpayer's trade or business or from use in the taxpayer's production of income activity. The retirement of property from service would include the sale or exchange of the property by the taxpayer.

Page 9 of Publication 946, under the heading, **Incorrect Amount of Depreciation Deducted**, notes that if a taxpayer made a mathematical error resulting in the deduction of an incorrect amount of depreciation on the taxpayer's return for the taxable year, the taxpayer may be able to correct the error by filing an amend return. Note also that there is a requirement for an adjustment to the basis of the depreciable property, even if the taxpayer does not claim depreciation that the taxpayer is entitled to deduct. Under such circumstances, before figuring gain or loss on a sale, exchange, or other disposition of the property, taxpayer must reduce the basis of the property by the full amount of depreciation that the taxpayer could have deducted on the tax returns under the method of depreciation the taxpayer chose. See Publication 551, under heading, **Adjusted Basis**, pages 4-6, and Publication 946, under subheading, **Basis Adjustment**, page 9.

This letter has called your attention to certain general principles of tax law. It is intended for informational purposes only and does not constitute a ruling. See section

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2.04 of Rev. Proc. 2001-1, a copy of which is enclosed. We hope the materials enclosed will be helpful to you; however, if you should have any additional questions or comments, please contact our office at (202) 622-3110.

Sincerely yours,

Charles B. Ramsey

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Enclosures (3)